



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

MEETING MINUTES:	BOARD OF PROFESSIONAL LAND SURVEYORS
DATE AND TIME:	Thursday, June 17, 2010 at 8:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building
APPROVED:	August 24, 2010

MEMBERS PRESENT

Steven Sellers, Professional Member
Michael Szymanski, Professional Member
Laurence McBride, Professional Member
James Bielicki, Jr., Professional Member
Mary Chvostal, Public Member
Frank Szczuka, Public Member (entered 8:47 a.m.)

DIVISION STAFF

Frederick Schranck, Deputy Attorney General
Renee' Holt, Administrative Specialist II
Sandra Wagner, Administrative Specialist III (entered 12:34 pm)

MEMBERS ABSENT

PUBLIC

Julia LaBadia, Wilcox & Fetzer, court reporter

CALL TO ORDER

Mr. Sellers called the meeting to order at 8:39 a.m.

REVIEW AND APPROVAL OF MINUTES

The Board reviewed the Hearing Minutes from December 7, 2009. Mr. Szymanski made grammatical corrections. Mr. Szymanski questioned what would happen with the licensees who do not comply with conditions of the orders. Mr. Schranck advised the Board could hold hearings before the regular scheduled September Board meeting. Mr. Szczuka asked about the complaint number and date shown in the February meeting minutes and was it correct. Ms. Holt corrected the date and confirmed the complaint number was assigned by the Investigative Unit and was correct. Ms. Sellers tabled the review of the minutes until after the hearings at 9:00 a.m. The Board returned to review of minutes at 1:07 p.m. Mr. Szymanski made a motion, seconded by Mr. McBride to approve the hearing minutes with revisions. The motion passed with a quorum of the Board voting yes and Mr. Bielicki being recused. Ms. Chvostal was not present.

The Board reviewed the Board Meeting Minutes of December 17, 2009. Mr. Szymanski provided grammatical corrections and comments. Ms. Holt requested Board's direction on how the public comment portion of the minutes should be reflected. Mr. Szymanski confirmed the section should be summarized. Mr. Szymanski made a motion to approve the December 17, 2009 minutes pending revisions and summarization of public comments highlighted in yellow, seconded by Mr. McBride. The motion was carried by a majority vote with Mr. Bielicki recused and Ms. Chvostal absent.

Ms. Holt reported the Board Meeting Minutes for April 15, 2010 and May 20, 2010 were incomplete. Mr. Sellers tabled the review of the minutes until complete.

DISCIPLINARY HEARING – Bruce McKenna

The Delaware Board of Professional Land Surveyors held a hearing on June 17, 2010 at 9:00 a.m. in the Cannon Building second floor Conference Room A, 861 Silver Lake Boulevard, Dover, Delaware.

PRESENT: Stephen Sellers, Michael Szymanski, Mary Chvostal, James Bielicki, Frank Szczuka

RECUSED: Laurence McBride

EXCUSED: None

PURPOSE: Disciplinary Hearing secondary to 24 Del C.1922 (a)(2).

PRESIDING: Stephen Sellers, PLS, Chairman

BOARD STAFF: Renee' Holt, Administrative Specialist II

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Frederick Schranck, D.A.G.

DEPUTY ATTORNEY GENERAL FOR THE STATE: Barbara Gadbois, Esq.

RESPONDENT: Bruce McKenna

COUNSEL FOR THE RESPONDENT: Wayne Natale, Esq.; John Denney, Esq.

WITNESSES FOR THE STATE: Jean Betley

WITNESSES FOR THE RESPONDENT: Frank Lenik,

COURT REPORTER PRESENT: Julia LaBadia, Wilcox & Fetzer Ltd. Transcripts are available from the named court reporter.

TIME STARTED: 9:02 a.m.

Mr. Schranck reviewed the purpose of the hearing. The hearing began at 9:02 a.m. The court reporter took verbatim testimony. Mr. Natale is present as representation for Mr. McKenna, as well as John Denney. Mr. Natale is representing Mr. McKenna Pro Hac Vice. Ms. Gadbois stated the exhibits would be admitted after the witness verified documents. Mr. Schranck explained the process following the hearing. Ms. Gadbois made opening statements. Ms. Gadbois called Ms. Betley as the State's witness. Ms. Gadbois questioned Ms. Betley. Ms. Betley gave testimony. Ms. Betley identified documents in the State's Exhibit 1. Ms. Gadbois asked that the documents be entered into the record as State's Exhibit 1.

Mr. Natale stated he did not acknowledge the summary of the law and rules and regulations attached to the Exhibit as applying to the matter. Mr. Schranck distributed the exhibit to the Board. Ms. Gadbois questioned Ms. Betley. Ms. Betley gave testimony. Mr. Natale questioned Ms. Betley. Ms. Betley gave testimony. Ms. Gadbois questioned Ms. Betley. Ms. Betley gave further testimony. Mr. Natale questioned Ms. Betley. Ms. Betley gave testimony. The Board had no questions. Ms. Gadbois closed. Mr. Natale gave a brief opening statement. Mr. Natale called Mr. Frank Lenik as a witness. Mr. Natale questioned Mr. Lenik. Mr. Lenik gave testimony. Ms. Gadbois questioned Mr. Lenik. Mr. Lenik gave testimony. Mr. Natale questioned Mr. Lenik. Mr. Lenik testified. Mr. Szymanski questioned Mr. Lenik. Mr. Lenik gave testimony. Mr. Natale asked if the Board would please take a short recess. Mr. Szczuka made a motion to take a recess at 10:49 a.m. Mr. Sellers stated the hearing would reconvene at 11:00 a.m. The hearing resumed at 11:08 a.m. Mr. Natale requested a continuance of the hearing. Ms. Gadbois did not object. Mr. Schranck stated the matter is recessed with the matter to be rescheduled. Mr. Schranck apologized for the inconvenience to all parties.

FINAL ORDER: The hearing was recessed and will be reconvened at a later date.

TIME ADJOURNED: 11:12 a.m.

PROPOSAL TO DENY HEARING – David Dworek

The Delaware Board of Professional Land Surveyors held a hearing on June 17, 2010 at 10:00 a.m. in the Cannon Building second floor Conference Room A, 861 Silver Lake Boulevard, Dover, Delaware.

PRESENT: Stephen Sellers, Michael Szymanski, Mary Chvostal, James Bielicki, Frank Szczuka, Laurence McBride

RECUSED: None

EXCUSED: None

PURPOSE: Proposal to Deny Hearing secondary to 24 Del.C.1922 (a)(2).

PRESIDING: Stephen Sellers, PLS, Chairman

BOARD STAFF: Renee' Holt, Administrative Specialist II

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Frederick Schranck, D.A.G.

DEPUTY ATTORNEY GENERAL FOR THE STATE: None

RESPONDENT: David Dworek

COUNSEL FOR THE RESPONDENT: Melissa Rhodes, Esq.

WITNESSES FOR THE STATE: None

WITNESSES FOR THE RESPONDENT: Gene Grady

COURT REPORTER PRESENT: Julia LaBadia, Wilcox & Fetzer Ltd. Transcripts are available from the named court reporter.

TIME STARTED: 11:14 a.m.

Mr. Schranck read the purpose of the hearing. The court reporter took verbatim testimony. Mr. Schranck stated the Board had the letter requesting a hearing, the application for licensure, professional experience reference forms, criminal history record report, and disposition papers provided by Mr. Dworek and entered the documents as Board Exhibit 1. Melissa Rhodes, Esq. Ms. Rhoades passed out a brief and requested it be marked as Applicant Exhibit 1. Ms. Rhoades gave opening statements. Mr. Szymanski questioned Mr. Dworek. Mr. Dworek testified. Mr. Szczuka questioned Mr. Dworek. Mr. Dworek testified. Mr. Schranck questioned Mr. Dworek. Mr. Dworek testified. Mr. Szymanski requested counsel from Mr. Schranck. Mr. Schranck gave counsel. The Board had no further questions. Ms. Rhoades called Mr. Grady. Mr. Grady was sworn in by the court reporter. Ms. Rhoades questioned Mr. Grady. Mr. Grady gave testimony. Mr. Szymanski questioned Mr. Grady. Mr. Grady gave testimony. Mr. McBride questioned Mr. Grady. Mr. Grady gave testimony. Ms. Rhoades questioned Mr. Dworek. Mr. Dworek testified. Ms. Rhoades gave closing statements.

The Board went off the record for deliberations at 11:58 a.m.

FINAL ORDER: Mr. Szczuka made a motion to grant the waiver for Mr. Dworek under §2708 (6) (c) as the granting of the waiver would not effect the health safety and welfare of the public. The motion failed due to lack of a second. Mr. Bielicki requested counsel on explanation of the statute. Mr. Schranck gave counsel. After further discussion, Mr. Bielicki made a motion to grant Mr. Dworek a waiver as spelled out in § 2708 (6)(a)(b)(c) solely as related to the charge, seconded by Ms. Chvostal. Mr. Szymanski requested the statute be read into the record. Mr. Schranck read the applicable statute into the record. Mr. Schranck advised the Board that a conditional waiver could be issued. The motion failed due to a majority vote of opposed. Mr. Szymanski made a motion to table the hearing because paragraph 6 section b could not be determined until the application was reviewed in its entirety. The motion was seconded by Ms. Chvostal. The motion was unanimously approved. Mr. Schranck advised Ms. Rhoades of the next course of action.

TIME ADJOURNED: 12:34 p.m.

William Wichess Request for Extension

Mr. Sellers stated a hearing must be scheduled for September to address the renewal and audit.

UNFINISHED BUSINESS

Review of Land Surveying Certificate of Authorization Application

The Board reviewed additional information supplied by Control Point Associates, Inc. supporting the application for Certificate of Authorization. Mr. Szymanski made a motion to approve the application, seconded by Mr. McBride. The motion was unanimously approved.

Mr. Sellers amended the agenda to add 5.1.2 Fralinger Engineering. The Board reviewed additional information submitted by Fralinger Engineering supporting the application for Certificate of Authorization. Mr. Szymanski made a motion to approve the application, seconded by Mr. McBride. The motion was unanimously approved.

Mr. Sellers amended the agenda to add 5.1.3 Thomas Ertle & Associates. The Board reviewed additional information submitted by Thomas Ertle & Associates supporting the application for Certificate of Authorization. Mr. Szymanski made a motion to approve the application, seconded by Mr. McBride. The motion was unanimously approved.

Review of Continuing Education Course

Michael Ray – additional supporting information

The Board reviewed the documentation submitted by Mr. Ray to support request of approval of a course entitled *Surveying in D.C.* Mr. Sellers stated the Board should start to recognize more courses and open them up to allow for surveyors to meet the requirements without taking the same courses over and over again. Mr. Szymanski made a motion to table the approval until the Board could consult with Mr. Schranck, seconded by Mr. Szczuka. The motion was approved with Mr. Bielicki being recused.

NEW BUSINESS

Request for Extension – Compliance

Mr. Uzoma Ahirakwe submitted an email request to the Board. The Board reviewed the request for an extension. After discussion, Ms. Chvostal made a motion to deny the request, seconded by Mr. McBride. Mr. Bielicki abstained from the vote and discussion. The motion carried with a vote of Mr. McBride, Ms. Chvostal, Mr. Sellers, and Mr. Szymanski voting to accept the motion.

Ms. Chvostal left the meeting at 1:03 p.m.

Courses for Continuing Education Approval

Mr. Szymanski reviewed the applications submitted by Vincent Nohe for courses from the Community College of Baltimore County and referred to Rule 10.3.8. Mr. Szymanski made a motion to approve *SURV226 – Minor Engineering I – Zoning Subdivision and Road Design* and *SURV241 – Minor Engineering III – Storm Drain Design* for 120 PDHs each. Mr. McBride seconded the motion. After further discussion, the motion was unanimously approved.

Review of Application for Licensure by Reciprocity - None

Review of Licensure by Examination - None

Review of Land Surveying Certificate of Authorization Application

The Board tabled a discussion of the details of compliance with the law regarding Board of Directors and employment status until Mr. Schranck was present.

Ratification of Issuance of Land Surveying Certificates of Authorization

Mr. Szymanski made a motion to ratify the issuance of the Certificates of Authorization listed below, seconded by Mr. McBride. After discussion, Mr. Szczuka voted no. The motion passed with a majority vote.

Robert M. Hughes & Associates, Inc. (5/26/10)
McCrone, Inc. (5/26/10)
Land Design Inc. (5/26/10)
Yerkes Associates Inc (6/10/10)
George E. Young III, P.C. (6/10/10)
Johnson, Mirmiran & Thompson, Inc (6/10/10)
Bay Engineering Inc (6/10/10)

Complaint Assignments

There were no complaints assigned.

Complaint Status

There was no update of complaint status.

Hearings/Consent Agreements/Board Orders

There were no scheduled hearings, consent agreements to review, or board orders to sign.

Closed Complaints

There were no closed complaints.

Wall Certificates

Mr. Sellers and Mr. Szczuka signed the wall certificate for Michael King.

Correspondence

Mr. Szymanski requested an update for the status of the Surveying Intern Application. Mr. Szymanski requested Ms. Holt investigate and report and update the status to the Board.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

Mr. Szymanski reported to the Board the results of a meeting with Mr. Collins regarding voiced concerns of the Board. Mr. Szymanski emphasized Ms. Wagner and Ms. Holt need to speak with Mr. Collins and Ms. Warren regarding the issues of incomplete minutes and the length of time it was taking to get completed minutes. The Board expressed frustration at the recent problems concerning timely submission of minutes for review. Mr. Szymanski relayed Mr. Collins's request to allow the Division of Professional Regulation three months to remedy the concerns as there had been staffing challenges that were currently being addressed and more staff had been hired. Mr. Szymanski stated Mr. Collins assured him the issues were being addressed.

PUBLIC COMMENT

There was no public comment.

NEXT MEETING

The next scheduled meeting of the board is September 16, 2010 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. There will be a public hearing meeting in August.

ADJOURNMENT

There being no further business before the Board, Mr. Szymanski made a motion, seconded by Mr. Bielicki to adjourn the meeting at 2:39 p.m. The motion was unanimously approved.

Respectfully Submitted,



Renee' M. Holt
Administrative Specialist II